

KEVIN V. RYAN (SBN 118321)  
 United States Attorney  
 JOANN M. SWANSON (SBN 88143)  
 Chief, Civil Division  
 ANDREW Y.S. CHENG (SBN 164613)  
 Assistant United States Attorney  
 KATHERINE B. DOWLING (SBN 220767)  
 Assistant United States Attorney

450 Golden Gate Avenue, 10th Floor  
 San Francisco, California 94102-3495  
 Telephone: (415) 436-6813  
 Facsimile: (415) 436-6748  
 Email: andrew.cheng@usdoj.gov

Attorneys for Federal Defendants

UNITED STATES DISTRICT COURT  
 NORTHERN DISTRICT OF CALIFORNIA  
 SAN FRANCISCO DIVISION

TSUNGAI TUNGWARARA,  
 Plaintiff,  
 v.  
 UNITED STATES OF AMERICA, et al.  
 Defendant.

No. C 04-2144 EDL  
**E-filing Case**  
**ORDER GRANTING**  
**DEFENDANT'S EX PARTE MOTION**  
**SEEKING COURT'S APPROVAL TO**  
**FILE ADDITIONAL AUTHORITY**

Date: February 14, 2006  
 Time: 9:00 a.m.  
 Courtroom E, 15<sup>th</sup> Floor

Pursuant to Civil L. R. 7-3(d), the Federal Defendant seeks the Court's approval to file the additional authority – *Welch v. United States*, 409 F.3d 646 (4<sup>th</sup> Cir. 2005). A copy of the decision is attached as Exhibit A.

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1 Counsel for the Federal Defendant discovered the case after the filing of the reply brief  
2 and brings the case to the Court's attention because jurisdictional challenges can be raised at any  
3 time, even for the first time on appeal. *United States v. Cotton*, 535 U.S. 625, 630, 122 S.Ct.  
4 1781 (2002); *Kuntz v. Lamar Corp.*, 385 F.3d 1177, 1181 (9<sup>th</sup> Cir. 2004).

5  
6 Respectfully submitted,

7 KEVIN V. RYAN  
8 United States Attorney


9 Dated: February 8, 2006

10 /s/  
11 ANDREW Y.S. CHENG  
12 KATHERINE B. DOWLING  
13 Assistant United States Attorneys

14 IT IS SO ORDERED

15 DATED: February 13, 2006

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ELIZABETH D. LAPORTE  
U.S. MAGISTRATE JUDGE